

**CALENDAR ITEM
C51**

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10/29/10
WP 8204
S.Young

GENERAL LEASE – NON EXCLUSIVE RIGHT OF WAY USE

LESSEE/APPLICANT:

AT&T Corp.
One AT&T Way, Room 3D 151 F
Bedminister, NY 07921

AREA, LAND TYPE, AND LOCATION:

Sovereign lands in the Pacific Ocean, offshore of Montaña de Oro State Beach,
San Luis Obispo County.

AUTHORIZED USE:

Continued use and maintenance of one fiber optic cable, identified as the south
end of Segment 9, which constitutes a portion of the Japan-U.S. Fiber Optic
Cable Network.

LEASE TERM:

15 years, beginning July 1, 2010.

CONSIDERATION:

\$96,697 per year, with the State reserving the right to fix a different rent
periodically during the lease term, as provided in the lease.

SPECIFIC LEASE PROVISIONS:

Insurance:

No less than \$1,000,000 combined single limit coverage.

Bond:

\$500,000

OTHER PERTINENT INFORMATION:

1. Applicant owns and has the right to use the uplands adjoining the lease premises.
2. On June 27, 2000, the Commission authorized the issuance of a General Lease – Non Exclusive Right of Way Use, Lease No. PRC 8204.1, to

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AT&T Corp. (AT&T) for the proposed Japan-U.S. Cable Network System (System). The System included the construction of the south end of Segment 9, a fiber optic cable to be installed in an existing empty conduit located at Montaña de Oro State Beach in San Luis Obispo County. The existing empty conduit, authorized by Lease No. PRC 8142.1, was issued to MFS Globenet Inc. (MFS), and authorized by the Commission on February 8, 2000. Both MFS and AT&T are members of a multi-member consortium (the Consortium) that owns the Japan-U.S. Cable Network. The members of the Consortium have entered into a private contractual agreement for the construction and maintenance of the Japan-U.S. Cable Network. Under the agreement, MFS retains ownership of the conduit authorized by Lease No. PRC 8142.1 and AT&T is responsible for the lease (Lease No. PRC 8204.1) for the fiber optic cable seaward of the conduit.

3. Lease No. PRC 8204.1 expired on June 30, 2010. The original lease contained a provision for a right to renew the lease for one additional period of 15 years, subject to such reasonable terms and conditions as the State may impose. AT&T is now applying for a new lease for the additional 15-year term.
4. In 2003 and 2005, AT&T conducted cable burial surveys which indicated the cable burial status had not appreciably changed between the 2003 and 2005 surveys nor since the cables were installed in 2001. The survey reports indicated that there was no evidence of cable interaction with fishing gear or with marine mammals.
5. On October 30, 2007, the Commission approved the a lease Amendment to Lease No. PRC 8204.1 to extend the cable burial inspection survey from the 18-24 month interval to a five-year interval. The next cable verification survey is required to be completed, and reports submitted simultaneously to the Commission and the California Coastal Commission (CCC) by the end of 2010. Similar permit conditions exist with the California Coastal Commission (CCC) Coastal Development Permits (CDPs), for which AT&T sought similar extensions.
6. Pursuant to the Commission's delegation of authority and the State CEQA Guidelines (Title 14, California Code of Regulations, section 15061), staff has determined this activity is exempt from the requirements of CEQA as a categorically exempt project. The project is exempt under Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905(a)(2).

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Authority: Public Resources Code section 21084 and Title 14, California Code of Regulations, section 15300 and Title 2, California Code of Regulations, section 2905.

7. This activity involves lands identified as possessing significant environmental values pursuant to Public Resources Code sections 6370, et seq. Based upon the staff's consultation with the persons nominating such lands and through the CEQA review process, it is staff's opinion that the project, as proposed, is consistent with its use classification.

EXHIBIT:

- A. Location and Site Map

PERMIT STREAMLINING ACT DEADLINE:

N/A

RECOMMENDED ACTION:

It is recommended that the commission:

CEQA FINDING:

Find that the activity is exempt from the requirements of CEQA pursuant to Title 14, California Code of Regulations, section 15061 as a categorically exempt project. Class 1, Existing Facilities; Title 2, California Code of Regulations, section 2905(a)(2).

SIGNIFICANT LANDS INVENTORY FINDING:

Find that this activity is consistent with the use classification designated by the Commission for the land pursuant to Public Resources Code sections 6370, et seq.

AUTHORIZATION:

Authorize issuance of a General Lease – Non-Exclusive Right of Way Use to beginning July 1, 2010, No. PRC 8151.1, for a term of 15 years, for the continued use and maintenance of one fiber optic cable as shown on Exhibit A attached (for reference purposes only) and by this reference made a part hereof; Consideration in the amount of \$96,697 per year, with the State reserving the right to fix a different rent periodically during the lease term, as provided in the lease; Liability insurance for combined single limit coverage of not less than \$1,000,000; Surety bond in the amount of \$500,000.